



California Fair Political Practices Commission

November 7, 1989

Emery Dowell
California Family Planning PAC
P.O. Box 191167
Sacramento, CA 95819

Re: Your Request for Advice
Our File No. A-89-566

Dear Mr. Dowell:

You have requested advice on behalf of the California Family Planning PAC ("CFP-PAC") concerning the campaign provisions of the Political Reform Act.¹

QUESTIONS

(1) May CFP-PAC solicit and receive contributions from candidates for direct candidate support (i.e. making contributions to candidates)?

(2) May CFP-PAC solicit and receive contributions, without limit, from candidates for making independent expenditures?

(3) May CFP-PAC solicit and receive contributions, without limit, from candidates for non-candidate support (i.e. overhead expenses, including expenses related to raising funds for direct candidate support)?

CONCLUSIONS

(1) Political committees may not receive contributions from candidates for the purpose of making contributions to other candidates for elective office.

(2) Political committees may receive without limits contributions for the purpose of making independent expenditures, as long as they do not commingle those funds with funds used to make contributions to candidates. However, candidates may be in violation of the Act if they use campaign funds to make contributions to political committees for the purpose of making independent expenditures to support or oppose other candidates. Candidates should contact the Commission prior to making any contributions for such purposes.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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(3) Political committees may receive, without limit, contributions from candidates for non-candidate support, such as overhead expenses, as long as the receiving committee does not commingle those funds with funds used to make contributions to candidates. The Commission is scheduled to decide December 13, 1989, whether the contribution limits apply to political committees for the purposes of raising funds for contributions to candidates.

ANALYSIS

Section 85304 prohibits "transfers of funds between candidates or their controlled committees." Since making a contribution to a candidate with funds received from another candidate would result in a "transfer of funds between candidates," a candidate may not make contributions to a political committee for the purpose of making contributions to candidates for elective office.

In addition, Section 85202(b) declares all contributions received by a candidate to be held in trust for expenses associated with that candidate's election. In combination, Sections 85304 and 85202(b) appear to prohibit a candidate's campaign funds from being used to support another candidate's election. Therefore, a candidate may not make contributions from his or her campaign funds to any committee if that committee uses those contributions for the purpose of making independent expenditures to support or oppose another candidate.


In contrast, contributions from a candidate to a political committee are not restricted if used for purposes other than making independent expenditures to support or oppose candidates for elective office, or making contributions to candidates seeking elective office. (Section 85303(c).) Therefore, a political committee may receive unlimited contributions from candidates for overhead expenses. The Commission will decide December 13, 1989, whether the limits also apply to political committees when raising contributions to pay for expenses associated with raising funds to make contributions to other candidates. Enclosed is a copy of proposed Regulation 18535, which addresses this issue in subdivision (d)(2).

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If you have additional questions, please contact me at (916)
322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosure

California

Family Planning

FPPC

FPPC

Political Action

SEP 32 7 43 AM '89

OCT 2 7 44 AM '89

Committee

Co-Chairs

Darlee J. Crickett, *Board Member, Planned Parenthood Federation of America*
John A. Hooper, *Former Board Member, Planned Parenthood Federation of America*

September 28, 1989

Please respond to:
P.O. Box 191167
Sacramento, CA 95819
(916) 445-1638

Steering Committee

Nancy Alexander, *Board Member, Planned Parenthood, Santa Barbara, Ventura, San Luis Obispo*
Norma Clevenger, *Executive Director, Planned Parenthood Affiliates of California*
Diana Dooley, *Former President, Planned Parenthood of Central California*
Hellan Roth Dawden, *Former Executive Director, Planned Parenthood Affiliates of California*
Emery (Soap) Dowell, *Former Board Member, Planned Parenthood of Sacramento Valley*
Allen L. Pross, *Board Member, Planned Parenthood, Alameda/San Francisco*
Thomas N. Saunders, *Former President, Planned Parenthood, Alameda/San Francisco*

Ms. Kathryn Donovan
General Counsel
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

RE: Request For Formal Written Advice

Dear Ms. Donovan:

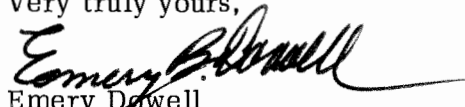
On behalf of the California Family Planning PAC (CFP-PAC), I am requesting formal written advice pursuant to Government Code section 83114(b).¹
I am the treasurer of the CFP-PAC.

CFP-PAC is a general purpose recipient committee which anticipates making both direct contributions to candidates and independent expenditures supporting or opposing candidates. CFP-PAC would like to solicit contributions from current officeholders and candidates. In light of recent interpretations of sections 85202 and 85304 by commission staff and the Federal District Court in SEIU v. FPPC, I am requesting advice on the following:

- (1) May CFP-PAC solicit and receive contributions, subject to limits, from candidates for direct candidate support (i.e., making contributions to candidates)?
- (2) May CFP-PAC solicit and receive contributions, without limits, from candidates for making independent expenditures?
- (3) May CFP-PAC solicit and receive contributions, without limits, from candidates for non-candidate support (i.e., overhead expenses, including expenses related to raising funds for direct candidate support)?

Thank you for your consideration of these questions. If you need further information, please do not hesitate to call.

Very truly yours,


Emery Dowell
Treasurer
California Family Planning PAC

1 - All References are to the Government Code unless otherwise indicated.
1127 11th Street Suite 233 • Sacramento, CA 95814

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Contributions to the California Family Planning PAC are not deductible as charitable contributions for Federal income tax purposes.



California Fair Political Practices Commission

October 2, 1989

Emery Dowell
Treasurer
California Family Planning PAC
P.O. Box 191167
Sacramento, CA 95819

Re: Letter No. 89-566

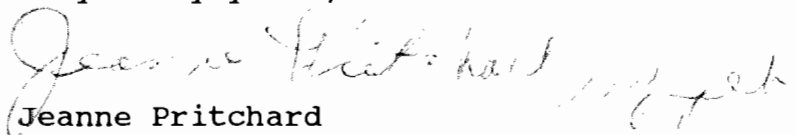
Dear Mr. Dowell:

Your letter requesting advice under the Political Reform Act was received on October 2, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh